

[Advisory Opinion 1998-3]

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

March 6, 1998

The Ethics Commission has been asked by an agency head for advice regarding a firefighter's desire to enter into an agreement with The Laser Center for a discount on the cost of laser eye surgery.

According to the information forwarded to the Commission, The Laser Center offered the firefighter a considerable discount on the cost of laser eye surgery in return for: (1) any referrals the firefighter might make to the Center after the surgery; and (2) participating in a "press interview" concerning how corrective eye surgery had improved the firefighter's job performance with the Montgomery County Department of Fire and Rescue Services.

The request implicated the following provisions of §19A-14 of the Montgomery County Ethics Law regarding the use of the prestige of a county office:

- (a) A public employee must not intentionally use the prestige of office for private gain or the gain of another. Performing usual and customary constituent services, without additional compensation, is not the use of prestige prohibited by this subsection.
- (b) Unless expressly authorized by the Chief Administrative Office, a person must not use an official County or agency title or insignia in connection with any private enterprise.

However, after receiving a written request, the Commission may grant a public employee a waiver of the prohibitions of §19A-14 if it finds that:

- (1) the best interests of the County would be served by granting the waiver;
- (2) the importance to the County of a public employee performing his or her official duties outweighs the actual or potential harm of any conflict of interest; and
- (3) granting the waiver will not give a public employee an unfair advantage over other members of the public.

The Commission determined that participation in an interview stating how the corrective eye surgery improved job performance as a firefighter for Montgomery County would constitute the use of the prestige of office contrary to the prohibition in §19A-14(a). To engage in an interview of this kind would require that the firefighter: (1) apply for and receive a waiver of §19A-14(a); and (2) is authorized by the Chief Administrative Officer to use an official County or agency title or insignia in connection with the fulfillment of either of his obligations under the agreement.